IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2091 of 2007

Shekar Madhukar Mhatre ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr K. S. Patil for the applicant.

Mr S. S. Pednekar, APP for the State.

CORAM: V.C. DAGA,J.
DATED: 12TH JULY, 2007.

P.C.:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. Perused application and material available on record.

3. The applicant-accused came to be arrested in C.R. No. 4 of 2007 registered with Poynad Police Station for the commission of the offence punishable under Sections 376 and 377 of the I.P.C. on the basis of the complaint lodged by one Yogita Sachin Thakur on 13.1.2007.

4. It appears to be the case of the complainant that on 13.1.2007 at about 3:00

p.m. her daughter by name Divyta, aged about 10 years, came to her weeping and informed her that the present applicant called her and her friend Shreya to his house under the guise of playing hide and seek game and thereafter asked her to sleep with him on cot alongwith her friend Shreya. It is alleged that after sleeping on cot with Divyta and Shreya, all three covered themselves with one blanket and taking advantage of the cover the applicant-accused committed sexual act and carnal intercourse with Divyta. On the basis of these allegations, the offence came to be registered against the applicant.

5. The applicant's application for bail came to be rejected by learned Additional Sessions Judge, Alibag on 2.3.2007.

6. I was taken through the medical as well as C.A. reports which is available on record. The medical report clearly suggests that there were no injuries on the private part of the victim. No evidence of inter-course was found by the Medical Officer. Thus, the medical report does not support the prosecution case.

7. The C. A. report is also brought to my notice, wherein no semen was detected on exhibits 1 and 2. Thus, C.A. report also does not help the prosecution.

8. The enmity between the family of the victim and the present applicant has been prima facie established. Both are next door neighbours. Except the statement of the mother of the victim, there is no other evidence available on record. Under these circumstances, considering the slender ground on which the prosecution case rest, the applicant is entitled for bail.

9. In the above view of the matter, the applicant is granted bail in the sum of Rs. 10,000/- with one surety to make up the amount of bail in C.R.No.4 of 2007 on the following conditions:

(a) that he should report to Poynad Police Station, once in a week i.e. on every Monday between 3.00 to 5.00 p.m.

(b) the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(c) the applicant shall not pressurise witnesses or prosecutrix and that he shall co-operate with the Investigating agency, if required.

7. The application is allowed in the above terms.

(V.C. DAGA,J.)